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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,112	09/24/2001	Hideki Kinugawa	214039US2X	5982

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EXAMINER

LOUIS JACQUES, JACQUES H

ART UNIT PAPER NUMBER

3661

DATE MAILED: 09/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/961,112

Applicant(s)

KINUGAWA, HIDEKI

Examiner

Jacques H Louis-Jacques

Art Unit

3661

NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,6-9,13,14 and 22-25 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,3,6-9,13,14 and 22-25 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 6-9, 13-14, 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable by Ehrman et al [US 20010037298 A1] in view of Hashimoto [6,696,981].

Ehrman et al discloses a fully automated vehicle rental system comprising operating information collection means for collecting operating information regarding operation of vehicle (abstract); a first receiving device provided in a base station for controlling said construction machine (page 2); storage means at said construction machine for storing the operating information (abstract and page 2); a transmission controller for transmitting the operating information read from the storage means to the first receiving device through a wireless radio having a limited range, wherein said first receiving device includes means for determining that the construction machine is within a transmission permissible area related to the limited range of the wireless radio when the construction machine returns to the base station (page 2), wherein said transmission controller comprises means for transmitting the operating information read from the storage means to the first receiving device through the wireless radio when said means for determining determines that the construction machine is within a transmission permissible area related to the limited range of the wireless radio when the construction

machine returns to the base station (pages 2 and 3). Ehrman et al also discloses an operating information control device for controlling said operating information received by said first receiving device; and operating information accumulating means provided on said operating information control device to accumulate said operating information, said operating information accumulating means classifying said operating information for plural construction machines (figure 2 [1a-f] and page 2), a movable body (e.g., second vehicle) on which is mounted a second receiving device for receiving said operating information transmitted from said transmission controller (page 2). The receiving device, according to Ehrman et al, provides data and time on which receiving and transmitting of said operating information is carried out relative to said construction machine for said operating information control device as incoming or outgoing date and time information of said construction machine (pages 3 and 4). Furthermore, there is provided a means for confirming whether communication is established when said operating information control device tries to get into communication periodically with said construction machine within the base station to thereby check existence of said construction machine (page 4). Ehrman et al does not particularly disclose a detector means for detecting that the vehicle has left or returned a base station (parking lot).

Hashimoto [6,696,981], on the other hand, discloses an apparatus for managing entry and exit of shared vehicles. According to Hashimoto, there is provided a detector means for detecting that a vehicle has left a base station (e.g., parking lot) and for detecting that the vehicle has returned to the base station (e.g., parking lot). See figure 3, columns 2 – 3, and 7. Hashimoto also discloses that the detector means comprising

sensors positioned to detect that the vehicle has left the base station (e.g., parking lot) and that the vehicle has returned to the base station (e.g., parking lot) based upon an order of signals output from the sensors. See figures 3, 8-9 and column 7. Thus, it would have been obvious to one skilled in the art at the time of the invention to be motivated to modify the fully automated vehicle system of Ehrman et al by incorporating the features from the apparatus for managing the entry and exit of a vehicle into an area of Hashimoto because such modification would ensure the efficiency of the system.

3. Claims **1, 3, 6-9, 13-14, 22-25** are rejected under 35 U.S.C. 103(a) as being unpatentable over Imanishi et al [6,349,252] in view of Hashimoto [6,696,981].

Imanishi et al discloses an information device for construction machinery, wherein there is provided an information collection means for collecting operating information regarding operation of a construction machine (abstract, figure 1, columns 8-10, 18-19), a storage means for storing the operating information (abstract, figure 1, columns 8-10) and a transmission controller for transmitting the operating information read from the storage means to a first receiving device provided except [in] the construction machine through a wireless radio, wherein the transmission controlled transmitting the operating information to the first receiving device when receiving a transmission request from outside of the construction machine (columns 8-12, 21). Furthermore, Imanishi et al discloses an operating information accumulating means provided on the operating information control device to accumulate the operating information and store the accumulated operating information (abstract and column 8).

Additionally, the first receiving device is provided in a base or remote station external to the construction machine (column 21). Imanishi does not particularly disclose a detector means for detecting that the vehicle has left or returned a base station (parking lot). Hashimoto [6,696,981], on the other hand, discloses an apparatus for managing entry and exit of shared vehicles. According to Hashimoto, there is provided a detector means for detecting that a vehicle has left a base station (e.g., parking lot) and for detecting that the vehicle has returned to the base station (e.g., parking lot). See figure 3, columns 2 – 3, and 7. Hashimoto also discloses that the detector means comprising sensors positioned to detect that the vehicle has left the base station (e.g., parking lot) and that the vehicle has returned to the base station (e.g., parking lot) based upon an order of signals output from the sensors. See figures 3, 8-9 and column 7. Thus, it would have been obvious to one skilled in the art at the time of the invention to be motivated to modify the information device for construction machinery of Imanishi by incorporating the features from the apparatus for managing the entry and exit of a vehicle into an area of Hashimoto because such modification would ensure the efficiency of the system.

4. Claims 1, 3, 6-9, 13-14, 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto et al [6,256,594] in view of Hashimoto [6,696,981].

Yamamoto et al discloses a machine fault monitoring apparatus and method, wherein operating information of a working or construction machine is monitored, collected and stored. According to Yamamoto et al, the collected operating information is transmitted over a wireless radio to a first receiving device at a remote station (20). Data

are transmission upon request or periodically for a predetermined period of time. See abstract. According to Yamamoto et al, the base station is remote to the construction machine and the operating information of the construction machine is accumulated. See also the abstract. According further to Yamamoto et al, as set forth in figure 3, data and time of the operating information are provided. In another embodiment, as depicted in figure 8, for example, the operating information is transmitted to a second construction vehicle and the monitoring station (20). Yamamoto et al does not particularly disclose a detector means for detecting that the vehicle has left or returned a base station (parking lot). Hashimoto [6,696,981], on the other hand, discloses an apparatus for managing entry and exit of shared vehicles. According to Hashimoto, there is provided a detector means for detecting that a vehicle has left a base station (e.g., parking lot) and for detecting that the vehicle has returned to the base station (e.g., parking lot). See figure 3, columns 2 – 3, and 7. Hashimoto also discloses that the detector means comprising sensors positioned to detect that the vehicle has left the base station (e.g., parking lot) and that the vehicle has returned to the base station (e.g., parking lot) based upon an order of signals output from the sensors. See figures 3, 8-9 and column 7. Thus, it would have been obvious to one skilled in the art at the time of the invention to be motivated to modify the machine fault monitoring apparatus Yamamoto et al by incorporating the features from the apparatus for managing the entry and exit of a vehicle into an area of Hashimoto because such modification would ensure the efficiency of the system.

Response to Amendments & Arguments

5. The amendments along with the arguments filed therewith on June 16, 2004 have been entered and carefully considered by the examiner.

As per the amendment, claims 1, 7, 9, 22 have been amended; claims 2, 4-5, 10-12, 15-21 have been canceled; new claims 23-25 have been added. Therefore, **claims 1, 3, 6-9, 13-14, 22-25** are presented for consideration.

In particular, the claims have been amended to recite a “detector means for detecting that a construction machine has left the base station and for detecting that the construction machine has returned to the base station”. The claims have been further amended to recite that that the transmission controller includes “means responsive to a signal from the detector means that the construction machine has returned to the base station.” Emphasis added. It is also noted that the limitation “means for determining that the construction machine is within a transmission permissible area ...” has been deleted from the claims.

Applicant argued, “Ehrman et al is not concerned with a construction machine, but instead discloses an automat bile rental system”. See response at page 8. The mere fact that the reference to Ehrman et al may be related to an automobile rental system does not in itself a basis that the reference does not teach the limitations as recited in the claims. In fact, arguments that a reference is non-analogous are not supported when the reference is applied in a 102 rejection.

Applicant argued that non of the applied references including Ehrman et al, Imanishi et al, Canon et al, Strong and Yamamoto et al discloses a “detector means” as newly recited in the pending claims.

Notwithstanding Applicant's arguments regarding the "detector means", a new ground of rejection, as necessitated by the amended has been applied against the pending claims.

Hashimoto [6,696,981] discloses an apparatus for managing entry and exit of shared vehicle. According to Hashimoto, there is provided a detector means for detecting that a vehicle has left a base station (e.g., parking lot) and for detecting that the vehicle has returned to the base station (e.g., parking lot)". See figure 3, columns 2 – 3, and 7 Hashimoto also discloses that the detector means comprising sensors positioned to detect that the vehicle has left the base station (e.g., parking lot) and that the vehicle has returned to the base station (e.g., parking lot) based upon an order of signals output from the sensors. See figures 3, 8-9 and column 7.

Jackson [5,432,508], while not being applied against the claims, discloses a technique for facilitating monitoring vehicle parking by using sensors (detector means) for detecting entrance and exit of a vehicle at a parking lot. Figure 4, for example, shows a pair of entrance/exit sensors for detecting that a vehicle has left a base station (e.g., parking lot) and for detecting that the vehicle has returned to the base station (e.g., parking lot)". Also, Jackson discloses that the sensors are positioned to detect that the vehicle has left the base station (e.g., parking lot) and that the vehicle has returned to the base station (e.g., parking lot) based upon an order of signals output from the sensors.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3661

5,432,508	Jackson	Jul. 1995
6,195,020	Brodeur, Sr. et al	Feb. 2001
6,437,688	Kobayashi	Aug. 2002
Re.37,822	Anthonyson	Aug. 2002
US20040039527	McDonalds, Jr. et al	Feb. 2004

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacques H Louis-Jacques whose telephone number is 703-305-9757. The examiner can normally be reached on M-Th 6:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on 703-305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jacques H Louis-Jacques
Primary Examiner
Art Unit 3661

/jlj
September 15, 2004

Jacques H Louis-Jacques
JACQUES H LOUIS-JACQUES
PRIMARY EXAMINER